IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 669 OF 2004

Virappa Gurusiddha Patil & ors. ... Appellants

V/s

Ramgonda Dadu Patil (Ambaji) ... Respondent

Mr. H.E. Palwe for the appellants.

None for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 23RD JUNE, 2005

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by the Ad-hoc Addl. District Judge, Kolhapur, dated 22.1.2004 dismissing the appeal and confirming the judgment and order passed by the Joint Civil Judge, Jr.Divn., Kolhapur dated 5.3.2001 dismissing the suit of the plaintiffs which was for perpetual injunction simplicitor.

2. I have heard the learned counsel for the appellants. The appellants have come with the case that they are the owner of the suit property by virtue of registered sale deed dated 15.3.1958, consequent to which their names

were entered into in 7/12 extract as owner. It is alleged that the defendant is obstructing their possession in the suit property, hence the suit came to be filed.

3. The learned Trial Judge heard both sides on merits and came to the conclusion that the plaintiffs have failed to prove their possession over the suit property as owner and also failed to establish that such possession was obstructed. In the result, the suit came to be dismissed.

3. The appeal was carried to the District Court, Kolhapur. The Addl. District Judge, Kolhapur, after hearing both parties, adjudicated the appeal and confirmed the findings recorded by the lower Court.

4. At the outset, it may be noted that there is absolutely no substantial question of law involved. Both the Courts below have held that the land, which appears in the registered sale deed, of which the plaintiff’s title is sought to be resisted, does not tally with the land mentioned in the registered 7/12 extract and, as such, their possession in the said land is not proved. Once the possession is not proved, then

the question of obstruction on behalf of the defendant does not arise and hence both the Courts below have dismissed the suit.

5. I do not find any fault whatsoever in the reasonings adopted and findings recorded by the lower appellate Court Judge and hence I hold that there is no merit involved in the appeal.

In the result, the appeal stands dismissed. Consequently, the Civil Application No. 768 of 2004 also stands dismissed.

(P.V. Kakade, J.)